UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1998/NGO/2
14 July 1998

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fiftieth session
Item 9 of the provisional agenda

THE ADMINISTRATION OF JUSTICE AND HUMAN RIGHTS

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[7 July 1998]

GE.98-13174 (E)

1. The International Federation of Human Rights Leagues and its member organizations, the Committee on the Administration of Justice (CAJ) in Northern Ireland and the Irish Council for Civil Liberties (ICCL) in the Republic of Ireland, continue to be concerned about the situation of human rights in Ireland, North and South. While we warmly welcome the Good Friday Agreement, it is crucial that the human rights aspects of the agreement are fully and speedily implemented if a lasting peace is to be secured. At the time of writing, human rights NGOs are concerned that the Government's plans to implement the human rights aspects of the agreement will minimize, rather than maximize their impact. In addition, there are a number of matters to which the United Kingdom Government should give immediate priority, in particular the implementation of the recommendations of the Special Rapporteur on the independence of judges and lawyers, Mr. Param Cumaraswamy, in his recent report on Northern Ireland (E/CN.4/1998/39/Add.4).

2. In the Republic of Ireland there are also problems arising from the use of emergency powers in response to the Northern Ireland conflict and the Good Friday Agreement provides for new measures to protect human rights in the Republic as well as in Northern Ireland.

Northern Ireland

3. The FIDH and CAJ believe that the agreement reached in the multi-party negotiations in Northern Ireland represents a very positive step in terms of securing effective protection for the rights of all in Northern Ireland. The agreement contains commitments to establish a Human Rights Commission and a new Bill of Rights, an independent commission to bring forward proposals for the future of policing, a review of the criminal justice system and measures to promote equality.

4. The FIDH and CAJ believe that the human rights aspects of the agreement must be implemented fully. In addition we believe that there are a number of matters where immediate action should be taken to maintain the momentum of the peace process and ensure an end to ongoing human rights violations.

5. Accordingly we urge the United Kingdom Government to implement the recommendations of the Special Rapporteur on the independence of judges and lawyers following his visit to Northern Ireland and England in October 1997. As NGOs who have monitored the problems he examines, we welcome his report and agree with his conclusions that RUC (Royal Ulster Constabulary) officers have engaged in systematic abuse of defence lawyers in Northern Ireland and that there is a need for an independent judicial inquiry into allegations of official involvement in the murder of Belfast solicitor Patrick Finucane.

6. The Special Rapporteur also made a number of other important recommendations. We endorse them all, and in particular urge the United Kingdom Government to take immediate action in order to bring about:

(a) An end to deferral of access to legal advice for those held under emergency laws;

(b) The introduction of legislation to give suspects the right to have a solicitor present during police interviews;

(c) The restoration of the right to remain silent under police questioning;

(d) The extension of the PACE (Police and Criminal Evidence Act) standard for the admissibility of confession evidence to all cases;

(e) The restoration of the right to trial by jury;

(f) An end to the practice of closed prison visits in England and Wales;

(g) The exemption of lawyers' offices from official surveillance; and

(h) Training on international human rights laws for the judiciary and the police.

7. We note that while the United Kingdom Government welcomed the Special Rapporteur's report, it rejected all of its recommendations. We were intensely disappointed by this lack of any positive response, and hope that on reflection the Government will give serious consideration to the grave issues raised in the Special Rapporteur's report and will draw up specific plans for implementing its proposals urgently.

8. We further note that the Government of the Republic of Ireland concluded that the Special Rapporteur's observations and recommendations deserve very close attention. The Irish Government also expressed the view that his report "will be of considerable assistance in addressing the need to build confidence in the administration of justice on the part of both traditions in Northern Ireland". The Special Rapporteur concluded his address to the United Nations Commission on Human Rights in a similar vein, when he said:

> "I am quite conscious of the fact that the ongoing peace talks in Northern Ireland are at a crucial stage. It is within this context that I concluded and made these recommendations in my report with the conviction that respect for the rule of law and human rights with greater confidence in public institutions showing transparency and accountability will enhance the prospects for a lasting peaceful settlement of the conflict."

9. We echo those sentiments. A just and durable peace will depend crucially on an independent, well-informed judiciary and on lawyers unhindered in their duties by abusive treatment at the hands of law-enforcement officials. It will also depend on respect for the rule of law, which these proposed reforms would do much to enhance.

The Republic of Ireland

10. Emergency legislation in the Republic of Ireland is based on the Offences Against the State Act 1939. This legislation has no provision for periodic reviews of its operations. It establishes a special non-jury court to try paramilitary-related offences, thus creating a two-tier justice system.

11. Under the emergency legislation, a police officer's opinion is accepted as evidence of an accused person's membership of an illegal organization, an offence carrying a maximum penalty of 10 years' imprisonment. It is also an offence for a suspect to refuse to give an account of his/her movements to the police.

12. Despite the ceasefires in Northern Ireland and the corresponding decline in the level of paramilitary violence in the Republic, the non-jury Special Criminal Court has remained in use. The United Nations Human Rights Committee said as long ago as 1993, before the ceasefires, that the continued use of the Special Criminal Court was no longer justified and expressed its concern about the extent of police powers in the Republic. In a worrying example of the tendency for emergency powers to become part of the ordinary law, the Irish authorities are now sending a number of serious non-paramilitary cases to be tried by the Special Criminal Court. The Good Friday Agreement commits the Irish Government to re-examining its emergency laws. We believe that it should end the use of this legislation and the Special Criminal Court forthwith and return to the ordinary rule of law.

13. In previous submissions (1997) we made reference to allegations of ill-treatment of persons arrested in connection with the murder of a police officer in 1996. The Government has failed to respond to calls for an independent inquiry into these allegations. The ICCL, together with British Irish Rights Watch, has compiled a report on these allegations which it forwarded recently to the Human Rights Committee. In May of this year, police shot and killed a member of a dissident paramilitary group in controversial circumstances during an attempted armed robbery. The Government has again ignored calls for an independent inquiry, while the powers of inquests are too restricted to allow for a thorough investigation of this incident. We believe that fully independent inquiries into these incidents are vital to maintaining confidence in the integrity of the police force and sending a clear signal that police misconduct will not be tolerated.

14. The Good Friday Agreement also commits the Irish Government to reconsidering a decision not to incorporate the European Convention on Human Rights into its domestic law and to establish a Human Rights Commission in parallel with one in Northern Ireland. We welcome these commitments and hope that the Irish Government will agree to incorporate the European Convention so as to provide the same level of access to the Convention as will be available in Northern Ireland. We very much welcome the commitment to establish Human Rights Commissions in both Irish jurisdictions but we are concerned that they may be given less power and independence than is recommended in the Paris Principles relating to the status of national institutions for the promotion and protection of human rights.

15. We believe that the British and Irish Governments should adhere to the best international practice in setting up these two Commissions and give them the widest possible powers and remits.

Conclusion

16. The peace agreement creates an unprecedented opportunity to put in place a new human rights regime that can give confidence to bruised and suspicious communities that they will not again be subject to the abuses of human rights that played a major role in initiating and sustaining the conflict in Northern Ireland with its spillover effects on Great Britain and the Republic of Ireland. The proposed political settlement will only succeed, however, if all communities can be assured that the law will be enforced fairly and impartially by security forces that enjoy the confidence and respect of all communities.